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March 5, 2008

BY MAIL AND EMAIL

Mr. Elliot Block
California Integrated Waste Management Board
1001 I Street
Sacramento, CA 95812

RE: Petition for hearing, PRC §44307; Sunshine Canyon Landfill permit application

Dear Mr. Block:

I write representing the North Valley Coalition. The Coalition requests a hearing pursuant to California Public Resources Code §44307 regarding the application for a solid waste facility permit by Browning Ferris Industries, the operators of the Sunshine Canyon Landfill.

The NVC contends that the proper first forum for the hearing is the hearing panel provided by PRC §44307 to contest the action or inaction of the local enforcement agency. Here the local enforcement agency is either or both of the City of Los Angeles and County of Los Angeles.

The NVC also requests hearing before the CIWMB should the matter be heard directly before the CIWMB, reserving however its right to contest the failure of the CIWMB to first hear the matter at the local level.

The Statement of Issues provided herewith details the specific issues raised by the Coalition. In general, the Coalition contends that the CIWMB's acceptance of the permit application is improper and that it should be made to one or both of the local enforcement agencies.

Finally, the Coalition requests that a stay on any permit application be imposed pursuant to PRC §45017.

Thank you for your consideration of this matter.

Sincerely,



KELLY T. SMITH

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8 Attorney for Petitioners
9 NORTH VALLEY COALITION
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BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE OF CALIFORNIA

In Re:

Application to the California Integrated Waste
Management Board by Browning Ferris
Industries for a Solid Waste Facility Permit for
the Sunshine Canyon Landfill
(SWIS 19-AA-2000)

NORTH VALLEY COALITION
STATEMENT OF ISSUES IN SUPPORT
OF REQUEST FOR HEARING

[PRC §§ 44307, 44310]

BACKGROUND

The Sunshine Canyon Landfill, located in northern San Fernando Valley of California, is actually two adjoining landfills for the purpose of state regulation. The landfills sit at the border of the City of Los Angeles and the County of Los Angeles—one on the City side, one on the County side.

The landfills, while jointly owned and operated, have always been regulated separately under both local and state laws and regulations. Thus the County of Los Angeles has always legislated the land use control of the County-side landfill; the City of Los Angeles has always legislated the land use control on the City-side landfill. Enforcement of state solid waste permitting, inspection and enforcement of the County-side landfill has always been conducted by the County local enforcement agency; enforcement of state solid waste permitting, inspection and enforcement of the City-side landfill has always been conducted by the City local enforcement agency.

The operator of the Sunshine Canyon Landfills, Browning Ferris Industries of California (BFI), has attempted to side-step the proper process for obtaining state solid waste facility permits by applying

1 directly to the CIWMB, bypassing the City and County local enforcement agencies which have always
2 been responsible for permitting the landfill.

3 Landfills in California are regulated according to a system of “LEAs,” local government agencies
4 appointed by local governments where the landfill is located. These LEAs are the backbone of the
5 state’s landfill regulation regime. The LEA system also serves to integrate local planning and land use
6 with state solid waste facility regulations. This is made clear by PRC §44008(a):

- 7
8 a) A decision to issue or not issue the permit shall be made by the enforcement agency
9 within 120 days from the date that the application is deemed complete pursuant to
10 Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the
Government Code, unless waived by the applicant. (Emphasis added.)

11 Under PRC §44009(a)(1), the CIWMB has 60 days to concur or act not to concur in the permit
12 proposed by the LEA, not the project applicant.

13 The CIWMB serves as a backstop only where a LEA is not designated, or when the LEA fails to
14 perform as required. Disqualification of the LEA must follow a regulated procedure—which has not
15 occurred here.

16 The CIWMB does not have authority to serve as an alternative LEA; the permit applicant does not
17 have an election to make between the CIWMB and the LEA for the purposes of second guessing the
18 LEA, or for shopping for a preferred LEA or for otherwise gaming the system.

19 The health and environmental impacts of landfills are great and their risks well known.¹ Allowing a
20 self-interested garbage company to dictate how its permit will be handled greatly undermines the health,
21 safety and environmental protections of state law.

22 Apparently, BFI has already made an application directly to the CIWMB. Apparently, according to
23 a January 17, 2007 letter from CIWMB permitting director Ted Rauh, the CIWMB has not officially
24 decided to accept the BFI Sunshine Canyon landfill permitting application. Instead the CIWMB appears
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28 ¹ *California Integrated Waste Management Board: Limited Authority and Weak Oversight Diminish Its Ability to Protect
Public Health and Safety*” Bureau of State Audits, 2000.

1 to be ordering the City and the County LEAs to merge their operations to provide for a single landfill
2 regulator across their border.

3 Nothing in state law appears to provide authority for CIWMB staff's mandate that a joint LEA be
4 created. Every common sense dictates against it. A joint LEA will be accountable to whom, to which
5 legislative body, City or County? The fees that will be collected by a joint LEA will be controlled by
6 which agency? Apparently the CIWMB is pushing for an independent regulatory body, self-sustaining,
7 in a limbo between local and state control. Such a situation invites the collusion of the landfill operator
8 and the regulatory agency, where the regulator's who existence is based upon the landfill.

9 In this instance, BFI is also attempting to gain advantage by improperly adding to the confusion.
10 The permit application submitted by BFI is unsupported by the environmental review previously
11 conducted for the landfill expansion project. Indeed, because of significant changes to the project, and
12 the potential for additional, significant environmental impacts, a supplemental or new environmental
13 review should be conducted on the project.

14 Furthermore, the permit application itself is extremely confusing and fails to correspond to the
15 environmental review previously conducted. This may be especially so in the instance of the financial
16 guarantees as required by state law and for the mitigation cited in the previous environmental
17 documentation.

18 19 ISSUES

20 The following list enumerates the issues taken by the North Valley Coalition with the CIWMB
21 order to form a joint LEA for Sunshine Canyon, and with the acceptance of the solid waste facility
22 permit submitted by BFI for the joint operation of the landfill under a proposed landfill-specific LEA.

23 1. Any CIWMB requirement that the City of Los Angeles and/or the County of Los Angeles
24 form a single LEA for the purpose of regulating the Sunshine Canyon Landfill is improper, in that it
25 is not authorized in state law.

26 2. BFI's claims of land use approvals by the City and County for "merged operations" do not
27 impose a mandatory duty upon the CIWMB under PRC §43202 to replace the County or City LEA
28 as the enforcement agency within the County or City-side landfills respectively.

1 3. The CIWMB is legally obligated to follow the procedures for permitting a solid waste
2 landfill as found under PRC §43214 et seq., before the CIWMB can prevent the County or City
3 LEAs from acting as the exclusive enforcement agency for the County or City landfill areas.

4 4. In the absence of fulfilling the requirements of PRC §43214 et seq., only the City has
5 authority to act as the enforcement agency for the landfill in the City-side area of Sunshine Canyon
6 Landfill; only the County has the authority to act as the enforcement agency for the landfill in the
7 County-side area of Sunshine Canyon Landfill.

8 5. Any action by the CIWMB to review, comment upon, accept, propose or review any solid
9 waste facility permit application for a joint Sunshine Canyon Landfill operation without providing
10 the full PRC §44307 hearing review, and without requiring submittal of the BFI application to the
11 City and/or County LEA would be unlawful.

12 6. Land use approvals by either or both of the City and County of Los Angeles do not create a
13 joint landfill for the purpose of state solid waste facility permitting. Thus any permit application by
14 BFI for a single landfill operation and LEA was not authorized by the City or County as the
15 conditions imposed by the respective CUPs necessary for the submittal of the permit application
16 have not met compliance.

17 7. The CIWMB is legally obligated to follow the due process requirements for the City LEA
18 which are contained in the PRC, including under PRC §§ 43214 et seq., before the CIWMB can
19 prevent the City LEA from acting as the exclusive enforcement agency for the City Landfill area.

20 8. The CIWMB must first obtain an agreement with the City of Los Angeles City Council
21 that is required of the CIWMB pursuant to PRC §§ 43212.1 or 43312.1 or 43310.1 before the
22 CIWMB can act as enforcement agency within the territorial boundaries of the City of Los Angeles,
23 including, more specifically within the City Landfill area.

24 9. The CIWMB must first obtain an agreement with the County of Los Angeles Board of
25 Supervisors that is required of the CIWMB pursuant to PRC §§ 43212.1 or 43312.1 or 43310.1
26 before the CIWMB can act as enforcement agency within the territorial boundaries of the County of
27 Los Angeles, including, more specifically within the County-side landfill area.
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1 10. Any joint operations permit issued by the CIWMB for joint operations will supersede the
2 current solid waste facility permits for the City-side and County-side landfills. Thus the landfill must
3 be closed, as any joint permit will not comply with the terms of the land use conditions imposed by
4 the City of Los Angeles and the County of Los Angeles.

5 11. The public does not have full opportunity for hearing of the issues raised here because of
6 the procedure used by BFI of applying to the CIWMB directly for its permit. The proper method for
7 hearing under PRC §44037 is to first hear the matter at the local enforcement agency level. Here BFI
8 seeks to skirt the local public review and take its permit to Sacramento, making local public
9 participation much more difficult. The CIWMB should redirect hearing under PRC §44307 to the
10 local enforcement level before hearing the matter on any appeal which might be brought from that
11 process.

12 12. The Sunshine Canyon Landfill permit application submitted by BFI is not supported by
13 proper environmental review under the California Environmental Quality Act (CEQA), PRC §§
14 21000 et seq. The project approved previously for environmental review has changed substantially
15 with the permit application submitted by BFI to the CIWMB. Those changes or new potentially
16 significant environmental impacts include the following:

- 17 a. Unanalyzed slope stability. The slope stability of the landfill, in an earthquake zone, has
18 changed because the project was modified to add a double-liner leachate control system,
19 rather than the single liner analyzed in the previous environmental review. See the
20 February 7, 2008 letter of the Regional Water Quality Control Board's senior engineering
21 geologist "(the RWQCB letter)", submitted herewith. The change to the slope stability
22 has not been analyzed as required by CEQA.
- 23 b. Leachate collection. The leachate collection sump must be replaced according to the
24 RWQCB, but the alternative has never been proposed or analyzed. Discharge of any
25 leachate is a potentially significant environmental impact. See the RWQCB letter.
- 26 c. Settlement analysis. Any changes to the settlement of the landfill may affect the surface
27 water drainage system in the area—a potentially significant environmental impact. The
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proposed permit does not present a settlement analysis for the landfill after closure. See the RWQCB letter.

- d. Fill sequencing. The permit application fails to provide a fill sequencing plan for a combined landfill that has been subject to CEQA environmental review. The fill sequence will potentially cause significant environmental impacts in the form of disruption of the leachate collection, lining and slope stability concerns cited above.
- e. Conflict with local plans and policies. CEQA requires both a stable project description and a description of the project's impacts on local policies and plans. Here the County has adopted a new conditional use permit which was modified to conform to City CUP conditions. But the project proposed to the CIWMB either fails to properly describe these conditions, or fails to describe how the potentially significant environmental consequences of the project's conformance or failure to conform to the conditions.
- f. Mitigation measures. The revised CUP conditions of the City and County are essential to the enforcement and monitoring program for the landfill which were developed by the previous environmental review for the project. The effective removal of the conditions and their consequent mitigation functions by the CIWMB's refusal to recognize those conditions will require new or supplemental environmental review, as the impacts of the project can no longer be considered mitigated.

13. Because of the changes to the project and its failure to address the changes in a new or supplemented environmental impact report, the permit application cannot be accepted by the CIWMB or an LEA pursuant to PRC §§ 21166(a), (b) and (c).

14. Furthermore, the project description has been changed so much that the public cannot review the document to evaluate its consistency with CEQA.

CONCLUSION

The North Valley Coalition respectfully requests hearing pursuant to PRC §44307 of the issues as identified above. The NVC also joins in the request for hearing as presented by the City of Los Angeles and the County of Los Angeles. Finally, the Coalition also respectfully requests that the CIWMB or the

1 City or County LEA stay any action on the permit application pending the resolution of the hearing,
2 pursuant to PRC §45017.

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4 DATE: March 4, 2008

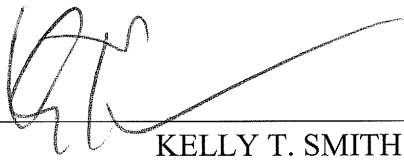
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6 KELLY T. SMITH
7 Attorney for Applicant
8 NORTH VALLEY COALITION
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EXHIBIT A



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

February 7, 2008

Mr. Dave Hauser, General Manager
BFI, Sunshine Canyon Landfill
14747 San Fernando Road
Sylmar, CA 91342

JOINT TECHNICAL DOCUMENT (JTD) FOR PROPOSED SUNSHINE CANYON CITY/COUNTY LANDFILL, SYLMAR, CALIFORNIA (FILE NO. 58-76)

Dear Mr. Hauser:

We have received a Joint Technical Document (JTD) that was submitted to regulatory agencies, including this Regional Water Quality Control Board (Regional Board), by Browning-Ferris Industries of California, Inc. (BFI) for the proposed Sunshine Canyon City/County Landfill (Landfill) in Sylmar, California. The JTD was prepared by Bryan A. Stirrat & Associates, Inc., dated November 2007, and submitted to the Regional Board on January 8, 2008. The proposed Landfill, if approved by regulatory agencies, will combine the existing City and County Extension landfills at the site that are currently permitted and operated separately. By submitting the JTD, BFI requests the Regional Board to adopt a single set of waste discharge requirements (WDRs) for the Landfill to replace Board Order Nos. R4-2003-0155 and R4-2007-0046 that have been adopted by the Regional Board for the City Landfill and County Extension Landfill, respectively.

In accordance with title 27 of the California Code Regulations (27 CCR), section 21585, Regional Board staff has completed preliminary review of the JTD and found that the JTD is incomplete because of the following deficiencies:

1. **Geologic Map and Cross Sections** - Section 21750(f)(1) of 27 CCR requires a comprehensive geologic map and geologic cross sections showing lithology and structural features to be included in JTDs. The geologic maps provided in the JTD (Figures 44 and 45) are inadequate because the scales are too small and details of many lithologic and structural features are not readable. Although those maps indicated that cross sections may have been prepared, no geological cross sections are included in the JTD. These geological maps must be resubmitted in a more readable format and cross sections, especially for areas impacted by landslides, must be included;
2. **Stability Analyses** - Appendix N of the JTD includes slope stability analyses that were prepared in 2002 for a previous JTD. However, landfill designs in the new JTD are different from those assumed in the 2002 JTD. Specifically, the new JTD proposes a double composite liner system and a final cover system that includes a low permeability (clay) layer, while the

Mr. Dave Hauser
Sunshine Canyon Landfill

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February 7, 2008

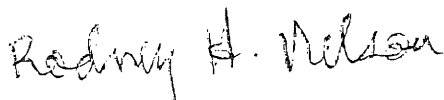
2002 JTD assumed a single composite liner system and a final cover system that included geosynthetic clay liners instead of a clay layer. We understand that BFI will submit stability analysis design plans for each phase of landfill development. However, stabilities of the overall landfill configuration and final refuse slope must be demonstrated in the JTD. In accordance with section 21750(f)(5) of 27 CCR, stability analyses in the JTD must be updated.

3. **Leachate Collection Sump** - The leachate collection sump displayed in Figure 46 of the JTD is typical for a landfill equipped with a single composite liner system. Because all phases of the proposed City/County Landfill will be constructed with double composite liner systems (as displayed in Figure 23), Figure 46 must be replaced;
4. **Settlement Analysis** - Section E.1.4 and Appendix K of the JTD present a settlement analysis for the Landfill after final closure. However, Figure 1 of Appendix K does not show any settlement in the Phase I and II areas of the current County Extension Landfill. We are unclear if this is due to the fact that the iso-settlement contour interval is too great (20 feet) so that smaller settlements could not be displayed, or those areas were not included in the analysis. In either case, the JTD should clarify whether settlement will occur in those areas. Because of the relatively flat final grade in the northern portion of the Landfill, any settlement may affect the surface water drainage system in that area; and
5. **Financial Assurance for Corrective Actions** - Appendix O of the JTD includes an estimate of corrective action cost that was submitted to the Regional Board by BFI in May 2007. However, the Regional Board adopted Order No. R4-2007-0046 on December 6, 2007, and established amounts financial assurance for corrective actions that differ from what had been proposed by BFI. Accordingly, Appendix O and related contents (such as Section D.5.5) in the JTD must be revised.

We will not begin preparation of tentative WDRs for the proposed Landfill until the above mentioned deficiencies are adequately addressed.

If you have any questions, please contact Dr. Wen Yang at (213) 620-2253.

Sincerely your,



Rodney H. Nelson
Senior Engineering Geologist
Landfills Unit

Mr. Dave Hauser
Sunshine Canyon Landfill

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February 7, 2008

cc: John Bell, California Integrated Waste Management Board, Sacramento
Peter Janicki, California Integrated Waste Management Board, Sacramento
William Marciniak, California Integrated Waste Management Board, Los Angeles
Mike Driller, Department of Water Resources
Pete Oda, Los Angeles County, DHS
David Thompson, City of Los Angeles, Environmental Affairs Department
Larry Israel, South Coast Air Quality Management District, Diamond Bar
Wayde Hunter, North Valley Coalition